

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

GENEVER HOLDINGS LLC,

Case No. 20-12411 (JLG)

Debtor.

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STIPULATION AND ORDER

WHEREAS, on October 12, 2020, Genever Holdings, LLC (the “**Debtor**”) filed a voluntary petition for relief under chapter 11 of the title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), thereby commencing case number 20-12411 (JLG) (the “**Bankruptcy Case**”);

WHEREAS, one of the Debtor’s chief asset consists of the 18th floor apartment and auxiliary units in the Sherry Netherland Hotel located at 781 Fifth Avenue, New York, New York 10022 (collectively, the “**Residence**”);

WHEREAS, on September 24, 2021, the Debtor filed its *Omnibus Second Renewed Motion (i) to Approve Second Amended and Restated Settlement with Bravo Luck and Pax; and (ii) to Hire Melanie L. Cyganowski as an Employee Only to Act as the Sales Officer for the Debtor’s Bankruptcy Estate* [Dkt. No. 131] (the “**Settlement Motion**”);

WHEREAS, as set forth in the Settlement Motion, the Debtor, Pacific Alliance Asia Opportunity Fund L.P. (“**PAX**”), and Bravo Luck Limited (“**Bravo Luck**” and collectively, with the Debtor and PAX, the “**Parties**”) entered into a settlement (the “**Settlement Agreement**”) (attached to the Settlement Motion as Exhibit A), establishing, *inter alia*, a framework for the sale of the Residence under the stewardship of Melanie L. Cyganowski as sales officer (the “**Sales Officer**”) to be employed by the Debtor in accordance with an engagement letter dated September 24, 2021 (attached to the Settlement Motion as Exhibit B);

WHEREAS, under the Settlement Agreement, the Sales Officer's authority and duties are, among other things, to (i) select a real estate broker to be retained and employed by the Debtor's estate in the Sale Officer's business judgment, and subject to the right of Bravo Luck and PAX to object; (ii) oversee and interface with the retained real estate broker; and (iii) have the final approval power after prior consultation with the Debtor, Bravo Luck and PAX, and subject to Bankruptcy Court approval with right to object by Bravo Luck and PAX, regarding the marketing and sale of the Residence;

WHEREAS, the Settlement Agreement provides that the sale process shall be limited to 180 days from the retention of the broker, subject to extension upon written agreement of the Debtor, Bravo Luck and PAX, or by further order of the Court for cause shown;

WHEREAS, on October 8, 2021, the Court entered (i) an Order approving the Settlement [Dkt. No. 141]; and (ii) an Order approving the Debtor's hiring of Melanie L. Cyganowski [Dkt. No. 142];

WHEREAS, on December 15, 2021, the Debtor filed its *Application to Employ and Retain Sotheby's International Realty as its Real Estate Broker and Sales Agent* [Dkt. No. 160] (the "***Sotheby's Application***"), in which the Debtor sought to retain Sotheby's International Realty ("***Sotheby's***") as the Debtor's sales agent in accordance with the engagement agreement [Dkt. 162-1] (the "***Retention Agreement***");

WHEREAS, the Retention Agreement provides that Sotheby's shall be retained for an initial term of 180 days from the entry of the Order approving its retention;

WHEREAS, on January 13, 2022, the Court entered an Order approving the Sotheby's Application [Dkt. No. 168];

WHEREAS, on August 16, 2022, the Court entered a Stipulation and Order, which (i)

extended the sale process of the Residence through September 12, 2022; and (ii) extended Sotheby's retention by the Debtor through September 12, 2022 [Dkt. No. 202];

WHEREAS, the Parties would like to further continue the sale process of the Residence, the Debtor's employment of Ms. Cyganowski as Sales Officer, and the retention of Sotheby's as the Debtor's broker to market and sell the Residence.

NOW THEREFORE, IT IS HEREBY:

ORDERED, that pursuant to the Settlement Agreement, the sale process of the Residence is extended from September 12, 2022 through October 31, 2022, without prejudice to further extensions of the sale process upon the consent of the parties to the Settlement Agreement without further order of the Court, or by further order of the Court for cause shown; and it is further

ORDERED, that Sotheby's retention by the Debtor is extended from September 12, 2022 through October 31, 2022, without prejudice to further extensions of Sotheby's retention upon the consent of the parties to the Settlement Agreement without further order of the Court, or by further order of the Court for cause shown; and it if further

ORDERED, that the Court shall retain jurisdiction to hear and to determine all matters relating to this Stipulation and Order.

Genever Holdings LLC <u>By: /s/ Kevin J. Nash</u> Kevin J. Nash Goldberg Weprin Finkel Goldstein LLP 1501 Broadway, 22 nd Floor New York, NY 10022-5520 212-301-6944 KNash@qwfglaw.com <i>Attorneys for Debtor, Genever Holdings, LLC</i>	Pacific Alliance Asia Opportunity Fund L.P. <u>By: /s/ Peter Friedman</u> Peter Friedman 1625 Eye Street, NW Washington, DC 20006 202-383-5302 pfriedman@omm.com <i>Attorneys for Pacific Alliance Asia Opportunity Fund L.P.</i>
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<p>Bravo Luck Limited</p> <p><u>By: /s/ Francis J. Lawall</u> Francis J. Lawall Troutman Pepper Hamilton Sanders LLP 3000 Two Logan Square Eighteenth and Arch Streets Philadelphia, PA 19103-2799 215-981-4000 Francis.lawall@troutman.com Attorneys for Bravo Luck Limited</p>	<p>Luc A. Despins, as Chapter 11 Trustee</p> <p><u>By: /s/ Luc A. Despins</u> Luc A. Despins PAUL HASTINGS LLP 200 Park Avenue New York, New York 10166 (212) 318-6001 lucdespins@paulhastings.com Chapter 11 Trustee of the Kwok Bankruptcy Estate</p>
<p><u>By: /s/ Melanie L. Cyganowski</u> Melanie L. Cyganowski, as Sales Officer of Genever Holdings LLC</p>	<p>Sotheby's International Realty</p> <p><u>By: /s/ Marissa Ghequiere</u> Marissa Ghequiere Senior Vice President of Sales – New York City</p> <p><u>By: /s/ Serena Boardman</u> Serena Boardman Senior Global Real Estate Advisor, Assoc. Broker</p>

SO ORDERED:

New York, NY
October 21, 2022

/s/ James L. Garrity, Jr.

Hon. James L. Garrity, Jr.
United States Bankruptcy Judge